

Thug Life

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Outlaw romanticism is as old as the modern state. Any society which imagines itself as a product of the contractual freedom of its members brings forth excluded, outvoted and marginalized people who haunt it and, at the same time, enticingly represent the view of itself from the outside. This makes the lawbreaker and outsider, as I know from my [own experience](#), an attractive object of literary efforts.

What's new, though, I guess, is that whole governments appear to paint themselves as outlaws as a means of politics. Any self-respecting intelligence service, one should think, should be able to eliminate an opposition figure in a largely untraceable and deniable way – but no, a military poison of mass destruction ends up in the victim's tea as an unmistakable signal to everyone that it was the state which tried to murder him. That appears like a statement. This is not just a state which turns his foes into outlaws without rights. This is a state which wants itself to be seen as an outlaw. (Disclaimer: We don't know any of that for sure, of course, all could be completely different, which in its turn might be part of the statement, etc. etc.)

Boris Johnson's government, fortunately, has not been blamed of murder, but its announcement to willfully breach its legal obligations under the Withdrawal Agreement has been met with the amount of abhorrence almost as if they had. One reason for that seems to me to be the fact that it was so candid. It's not so unheard of that a government tries to wriggle out of some cumbersome international law obligation, but to tell the world so clearly and unequivocally that, yes, one intends to be in breach of the law, particularly in conjunction with that eminently memefiable "in a very specific and limited way" part, is way more disturbing. It appears like a statement.

The literary function of the outlaw is to confront the normative order with a personified outside: The normal becomes conceivable as something which could also be different, but isn't. The outlaw allows its inside to imagine itself perceivable from the outside, as a whole and compact thing, and at the same time as escapable, opposable, as a matter of decision either for or against. The outlaw, viewed from the inside, is cast as an attractive person. A hero even. Exciting, sexy, empowered. Sovereign.

What makes a state seek that role? Isn't a state a normative order itself? How can it want to be its own outside?

Parliament is sovereign to pass legislation which is in breach of the UK's treaty obligations under UK constitutional law, the [government claims](#). That, per se, may even be true, but is hogwash nevertheless. The treaty in question has been concluded only months ago by the very government which now declares its intention to breach it. It was Boris Johnson's triumph that he has achieved what his predecessor had failed at: a deal which was passed by Parliament. This is the deal

he now preposterously claims the sovereign right to simply walk away from, with no better excuse than it is and always has been bloody annoying to honour it in the first place. On top of that, the draft Internal Market Bill makes no secret of its authors' intentions as it states explicitly in clause 45 that its rules on exit procedures and state aids shall "have effect notwithstanding any relevant international or domestic law with which they may be incompatible or inconsistent". The aim of this is obviously to immunize the breach from any challenge before a UK court. The breach shall be both there, for everyone to see, and not there, without any judicial consequences.

To claim the role of the outlaw is an act of self-empowerment. You stage yourself as a wild and dangerous daredevil, trying to impress all those who aren't but would like to be, imprisoned in the lightless inside and all the more keen to believe in any projections of the would-be outside.

Any outlaw depends on norms like a parasite on its host, though. In the case of the UK it may appear attractive to the current government to cultivate that sort of relationship with EU law as long as it is politically profitable. But that won't be the end of it. Law – that is the statement here – is what we get away with. The norm in relation to which this government is adopting the role of the outlaw is the rule of law itself.

The week on Verfassungsblog

Whether or not the **UK** can indeed change the effects of the Withdrawal Agreement through domestic legislation is analyzed by [KENNETH ARMSTRONG](#), and [NIKOS SKOUTARIS](#) examines if Boris Johnson's claim that the breach of international law is necessary in the interest of peace in Northern Ireland and the integrity of the UK is true. Surprise: it's not.

As if the Brexit negotiations weren't difficult enough already... One reason is Britain's refusal to accept an obligation to remaining a member of and apply internally the European Convention of Human Rights. Where the roots of the traditional skepticism towards codified human rights lie is explained by [RENÉ WOLFSTELLER](#).

The new President of the European Court of Human Rights, Robert Spanó, took a trip to **Turkey** which wasn't an unmitigated public relation success, as far as the human rights community is concerned, to put it mildly. The fact that the Icelandic judge has agreed to accept a honorary doctorate from the University of Istanbul which had purged scores of scholars from its ranks in blatant disregard of freedom of expression and research is just one of a number of incidents which have incensed Spano's critics. [TOLGA SIRIN](#) and [NECDET UMUT ORCAN](#) consider the formerly sterling reputation of the Strasbourg Court in Turkey, already in decline for some time, severely damaged. [DILEK KURBAN](#) calls on Spano to relinquish his office. The former Italian ECtHR judge [VLADIMIRO ZAGREBELSKY](#), on the other hand, defends the President and argues that he has spoken up bravely against violations of freedom of speech and press and research in Turkey.

Speaking of freedom of speech and research: In **Hungary**, the government's intention to "privatize" the University of Arts and Film as an attempt to get it under its thumb has sparked a remarkable degree of student protest and revolutionary spirit, as [VIKTOR KAZAI](#) reports.

And speaking of human rights in Europe: The notorious **Moria** refugee camp on the Greek island of Lesbos has gone up in flames, a source of inextinguishable shame for the entire continent, and still, *still* all Europe is looking on and shrugging their shoulders: Oh dear, something should be done about it, but surely not by us. [ITAMAR MANN](#) suggests to preserve the burned-down camp as a memorial in the mold of the ruin of the Kaiser-Wilhelm-Gedächtniskirche in Berlin.

Meanwhile in civilian **sea rescue**: the German Federal Ministry of Transport, as leaked documents reveal, has changed the naval security regulations expressly to make the sea rescue NGOs' life and life-saving efforts more difficult. This is objectionable not just in terms of procedure but also by its effect on the drowning of refugees in the Mediterranean Sea, argue [VERA MAGALI KELLER](#), [NASSIM MADJIDIAN](#) and [FLORIAN SCHÖLER](#).

Italians will vote soon in a referendum on whether or not the number of Parliament seats will be reduced from 945 to 600. The question is how many of them. The lack of interest in the Italian public is palpable, and what reasons that may have and what other problems the Italian democracy should worry about is examined by [MARCO GOLDONI](#).

Sometimes, constitutional reforms which looked perfectly reasonable at the time turn out to be really bad news some time afterwards. According to [PATRICK WEIL](#), who was our interview partner in our latest installment of our Corona Constitutional podcast, this is the case for both the alignment of the Presidential and the Parliamentary terms of office and the ban on the accumulation of offices for MPs in **France**, reforms which in Weil's view have added a lot to the dismal situation President Macron currently finds himself in.

In **Berlin**, the administrative court has ordered the removal of temporary bike lanes. [CHARLOTTE HEPNER](#) explains why this may be less hurtful to the local government's pro-bike policy than meets the eye.

On top of that, the district court of Berlin has decided that landlords can still raise the rent under certain conditions, the "rent cap" in Berlin notwithstanding. [FLORIAN RÖDL](#) and [SELMA GATHER](#) show why those "**shadow rents**" are by no means necessarily allowed under civil law and demanded by constitutional law.

In the **Hesse** parliament, an investigatory committee about the murder of a local CDU politician allegedly by a far-right extremist has tried in vain to convince the criminal court to hand over its court files. [PAUL GLAUBEN](#) examines the possibilities for compromise.

The German Federal Constitutional Court has recently denied a temporary injunction to the parents of a **child with disabilities** who were threatened with being deprived

custody because they insisted in schooling the child in a regular school. [VOLKER IGSTADT](#) finds that this is no way to guarantee the parents' rights and jeopardizes the implementation of the UN Convention on the Rights of Persons with Disabilities.

That's all for this week. All the best to you, take care, and don't forget to support our work on [Steady](#), via Paypal (paypal@verfassungsblog.de) or bank transfer (IBAN DE41 1001 0010 0923 7441 03), please. Many thanks!

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